



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### SOUTH CENTRAL REGIONAL OFFICE

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Preston Bryant  
Secretary of Natural Resources

David K. Paylor  
Director

Thomas L. Henderson  
Regional Director

## STATE WATER CONTROL BOARD ENFORCEMENT ACTION SPECIAL ORDER BY CONSENT ISSUED TO

**Newton Mobile Home Court, Incorporated**

**VPDES Permit No. VA0062421**

### **SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and Newton Mobile Home Court, Incorporated for the purpose of resolving certain violations of environmental laws and regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizen board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.

6. "STP" means sewage treatment plant.
7. "Newton" means Newton Mobile Home Court Incorporated, a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
8. "Facility" means the Newton Mobile Park STP, owned by Newton and located in Buffalo Junction, Virginia.
9. "SCRO" means the South Central Regional Office of DEQ, located in Lynchburg, Virginia.
10. "Previous Permit" means VPDES permit No. VA0062421, which became effective June 30, 1997 and expired June 30, 2002.
11. "Current Permit" means VPDES permit No. VA0062421, which became effective June 30, 2002 and expires June 30, 2007.
12. "NOV" means Notice of Violation.

#### **SECTION C: Findings of Facts and Conclusions of Law**

1. Newton owns and operates the Facility in Buffalo Junction, Mecklenburg County, Virginia. The Facility is the subject of the Current Permit which allows Newton to discharge treated wastewater into an unnamed tributary to Little Buffalo Creek in strict compliance with terms, limitations and requirements outlined in the Current Permit.
2. Prior to 2002, the Facility consisted of a lagoon treatment system. That system was not expected to meet final effluent limits imposed under the Previous Permit. The Previous Permit contained provisions for submitting plans & specifications for a system upgrade to meet the final limits which became effective on June 30, 2000.
3. Newton did not commence the system upgrade in time to meet the June 30, 2000 date for compliance with final effluent limits. Between July 1997 and June 2000, Newton received twelve (12) NOVs for violations of Biochemical Oxygen Demand ("BOD"), Total Suspended Solids ("TSS") and chlorine.
4. On December 13, 2001, a State Water Control Board Consent Special Order ("2001 Order") was executed requiring Newton to complete the upgrade to the Facility, which by that time had commenced, and to close the lagoon following startup of the new system. The upgrade was completed in mid-2002. By letter dated May 13, 2003, DEQ-SCRO cancelled the 2001 Order following Newton's substantial compliance with its terms.

5. Since its startup of the upgraded Facility, Newton has been in chronic violation of effluent limits for Carbonaceous Biochemical Oxygen Demand ("CBOD") and ammonia and, to a lesser extent, the limit for TSS. Newton has sought and received assistance from the manufacturer of the new treatment system and from its consulting engineer in attempting to get the upgraded Facility to meet the effluent limits of the Current Permit but has been unsuccessful in doing so.
6. Between May 2003 and July 2006, Newton has received twenty eight (28) NOVs numbered W2003-05-L-0010, W2003-06-L-0001, W2003-07-L-0001, W2003-09-L-0012, W2003-11-L-0006, W2004-03-L-0012, W2004-05-L-0004, W2004-08-L-0013, W2004-09-L-0005, W2004-10-L-0011, W2004-11-L-0004, W2004-12-L-0010, W2005-01-L-0002, W2005-02-L-0003, W2005-03-L-0003, W2005-04-L-0001, W2005-05-L-0005, W2005-06-L-0002, W2005-08-L-0004, W2005-09-L-0006, W2005-10-L-0001, W2005-11-L-0004, W2005-12-L-0004, W2006-01-L-0005, W2006-02-L-0001, W2006-05-L-0001, W2006-06-L-0001, and W2006-07-L-0006. The NOVs cite Newton for violations of CBOD, ammonia, TSS and dissolved oxygen effluent limits. In addition, the NOVs cite Newton for improper operation & maintenance ("O&M") of the Facility, improper reporting and for an unauthorized discharge from the Facility (accumulation of solids in the receiving stream).
7. On multiple occasions, staff of SCRO met with representatives of Newton to discuss operation of the Facility. During these meetings, SCRO staff acknowledged that Newton, after investing significant capital in a new STP, had chronic startup issues with the new Facility. However, SCRO staff noted that the most recent inspections of the Facility had identified observable impacts at the Facility outfall and in Little Buffalo Creek stemming from the chronic noncompliance with the Current Permit, including improper O&M of the Facility, and that additional corrective measures must be proposed by Newton. In response, Newton made some preliminary improvements to the Facility including repairs to a biological contactor unit and the replacement of coarse bubble diffusers in the equalization tank with fine bubble diffusers for improvement of oxygen transfer. Newton also addressed the deficiencies in reporting requirements. A phased approach for further corrective action, including improvements in O&M, has been proposed by Newton and is incorporated into Appendix A of the Order. The parties anticipate that the solids accumulated in the receiving stream will be addressed through natural attenuation.

#### **SECTION D: Agreement and Order**

1. Accordingly the State Water Control Board by virtue of the authority granted by Va. Code § 62.1-44.15(8a) and (8d), orders Newton, and Newton agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Newton, and Newton voluntarily agrees to pay a civil charge of **\$5,900**, within 30 days of the effective date of this Order, in settlement of the violations cited in this Order. The payment shall include Newton's Federal Identification Number and shall reference that it is being made

as a requirement of this Order. Payment shall be made by check, payable to the Treasurer of Virginia, delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

2. During the period that the Order remains in effect, Newton shall operate the Facility in a workmanlike fashion so as to produce the best quality effluent that the Facility is capable of producing.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Newton, for good cause shown by Newton, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the above referenced Notices of Violation. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Newton admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Newton consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Newton declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2 - 4000 *et seq.*, and the State Water Control and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Newton to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Newton shall be responsible for failure to comply with any of the terms and conditions by this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. Newton shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Newton shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 48 hours of learning of any condition above, which Newton intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Newton. Notwithstanding the foregoing, Newton agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminate the Order in his or its sole discretion upon 30 days written notice to Newton. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Newton from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Newton voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of December 19, 2006.

Thomas L. Henderson

Thomas L. Henderson, Regional Director  
Department of Environmental Quality

Newton voluntarily agrees to the issuance of this Order.

By: W. Dennis Newton

Date: 8-10-06

Commonwealth of Virginia

City/County of Mecklenburg

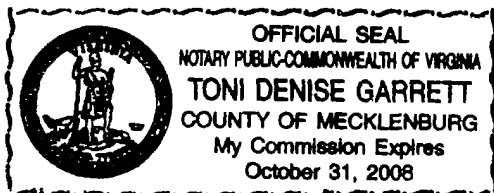
The foregoing document was signed and acknowledged before me this 10 day of

August, 2006, by W. Dennis Newton, who is  
(name)

owner of Newton Mobile Home Court, Incorporated, on behalf of the Corporation.  
(title)

Toni Denise Garrett  
Notary Public

My commission expires : 10/31/2008



**APPENDIX A  
SCHEDULE OF COMPLIANCE**

**NEWTON MOBILE HOME COURT, INCORPORATED  
NEWTON MOBILE HOME PARK STP  
VPDES Permit No. VA0062421**

1. **By August 31, 2006**, Newton shall complete the installation and begin use of equipment at the Facility for the continuous addition of concentrated micro-organisms (facultative bacteria) to control free oil and grease, remove organics and reduce sludge production.
2. **By September 15, 2006**, Newton shall submit to DEQ-SCRO **either**:
  - (a) engineering documentation showing that the primary clarifier and weir plate are level and functioning as designed; **or**,
  - (b) a plan & schedule for making the modifications to the Facility necessary to ensure that the primary clarifier and weir plate are level and functioning as designed.

Newton shall respond in writing **within 30 working days** of receiving any comments on the plan & schedule until such time DEQ approves the documents. Upon DEQ's approval, the plan & schedule shall be incorporated into and become enforceable under the Order.

3. Newton shall monitor the effectiveness of the improvements made pursuant to Paragraph Nos. 1 & 2 for two full calendar months following completion of the improvements. Newton shall submit a report to SCRO on the effectiveness of the improvements in meeting the limits of the Current Permit **along with next the Discharge Monitoring Report** due following completion of the two month evaluation period.
4. Based on DEQ's review of the report submitted pursuant to Paragraph No. 3 or on any other pertinent information, should DEQ determine that further improvements to the Facility are needed in order for the Facility to consistently comply with the Current Permit, DEQ shall advise Newton in writing of such determination. **Not later than 60 days** following receipt of such notification from DEQ, Newton shall submit plans & schedules to DEQ-SCRO for the addition of:
  - (a) a tertiary effluent filter; and,
  - (b) any other improvements Newton proposes for maintaining consistent compliance with the Current Permit.

Newton shall respond in writing **within 30 working days** of receiving any comments on the plans & schedules until such time DEQ approves the documents. Upon DEQ's approval, any such plans & schedules shall be incorporated into and become enforceable under the Order.

5. Following the completion of any necessary improvements to the Facility made pursuant to Paragraph 4, should DEQ determine that even further improvements to the Facility are needed in order for the Facility to consistently comply with the Current Permit, DEQ shall advise Newton in writing of such determination. **Not later than 60 days** following receipt of such notification from DEQ, Newton shall submit plans & schedules to DEQ-SCRO for the addition of:

- (a) an aerated digester with decanting features; and,
- (b) any other improvements Newton proposes for maintaining consistent compliance with the Current Permit.

Newton shall respond in writing **within 30 working days** of receiving any comments on the plans & schedules until such time DEQ approves the documents. Upon DEQ's approval, any such plans & schedules shall be incorporated into and become enforceable under the Order.